MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.351 OF 2007

United India Insurance Co.Ltd. Appellant
versus
Maruti Sitaram Mali & others Respondents

Mr.N.M.Godbole for appellant.

CORAM : A.S.OKA, J.

DATE : 07th February 2007

PC :

1. Heard learned advocate for the appellant. Admittedly the appellant had not applied for grant of leave u/s 170 of the Motor Vehicles Act, 1988. There is no defence taken which is covered by Section 149(2) of the said Act of 1988. Hence, in view of the decision of the Apex Court in the case of National Insurance Co. Ltd. Vs. Necolleta Rohtagi and others reported in (2002)7-SCC-456, the appeal at the instance of the Insurer is not maintainable. The appeal is accordingly dismissed as not maintainable. The appellant is entitled to refund of the amount, if any, u/s 173 of the said Act, 1988.

(A.S.OKA, J.)